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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL JAMES PACE,

Defendant and Appellant.

H042968

(Monterey County

Super. Ct. No. SS132148A)

Defendant Daniel James Pace appeals the trial court's order imposing a restitution fine and court administration fees after it revoked and terminated his probation and sentenced him to prison. The Attorney General concedes the merits of defendant's claim, and requests that the fine and fees be stricken.

**STATEMENT OF THE CASE<sup>1</sup>**

On November 7, 2013, defendant pleaded no contest to one count of burglary, in violation of Penal Code section 459. On December 19, 2013, the superior court suspended imposition of sentence and granted formal probation for a term of three years. At that time, the court ordered defendant to pay a restitution fine of \$280 (Pen. Code, § 1202.4, subd. (b)), a local crime prevention fee of \$41 (Pen. Code, § 1202.5), a court operations assessment of \$40 (Pen. Code, § 1465.8, subd. (a)(1)), and a court facilities

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<sup>1</sup> The underlying facts of this case are omitted because they are not relevant to the issue on appeal.

assessment of \$30 (Gov. Code, § 70373). The court further imposed and suspended a probation revocation fine of \$280 (Pen. Code, § 1202.44), and directed defendant to pay a criminal justice administration fee (Gov. Code, §§ 29550.1, 29550.2).

As a result of defendant's subsequent probation violations, the court revoked and reinstated probation on the same terms and conditions a number of times. Finally, on October 15, 2015, the court revoked and terminated probation. The court sentenced defendant to state prison for six years. At that time, the court ordered that defendant pay a restitution fine of \$200 "multiplied by the number of years of imprisonment, multiplied by the number of convicted Felony counts." (Pen. Code, § 1202.4, subd. (b)(2)). The court further imposed and suspended a parole revocation fine in the same amount (Pen. Code, §§ 1202.4, subd. (b), 1202.45), and imposed a court operations fee of \$40 (Pen. Code, § 1465.8, subd. (a)(1)), and a court facilities fee of \$30 (Gov. Code, § 70373). Defendant appeals the order of the fine and fees.

### **DISCUSSION**

Defendant argues that the trial court erred when it imposed an additional restitution fine in the amount of \$1,200, and additional court operations and facilities fees in the amounts of \$40 and \$20 respectively, following its revocation and termination of defendant's probation. Defendant asserts that these additional fees must be stricken because they are unlawful. The Attorney General concedes the merits of defendant's claim and we accept the concession.

A court is not authorized by statute to impose new fines or fees upon revocation of probation. (*People v. Preston* (2015) 239 Cal.App.4th 415, 423; *People v. Garcia* (2007) 147 Cal.App.4th 913, 917.) Therefore, the court erred in imposing the additional fine and fees. As a result, the new restitution fine in the amount of \$1,200, the court operations fee of \$40, and the court facilities fee of \$30 must be stricken. (*People v. Rios* (2013) 222 Cal.App.4th 542, 575-576.)

### **CONCLUSION**

The judgment is modified to strike the additional restitution fee and the court administration fees imposed after defendant's probation was revoked. As modified, the judgment is affirmed.

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RUSHING, P.J.

WE CONCUR:

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GROVER, J.

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WALSH, J.\*

***People v. Pace***  
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\* Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.